MONTANA LEGISLATIVE HISTORY

Chapter SB8 1995

Bill H _____ S 386 Original bill & history ✓C

H. Committee on Natural Resources			S. Committee on Natural Resource		
Hearing Date(s)	_____	✓C	Hearing Date(s)	_____	C
	3/15	✓C		2/15	✓C
	_____	C		_____	C
	_____	C		_____	C
Date Out	3/20	✓C		2/17	✓

Did this bill originate in an interim committee? ___Yes ✓No

Committee _____ Report _____

	RETURNED TO SENATE WITH AMENDMENTS		
4/10	MOTION CARRIED TO ALLOW HOUSE AMENDMENTS TO BE CONSIDERED AFTER THE 73RD DAY TRANSMITTAL DEADLINE	48	1
4/11	2ND READING AMENDMENTS CONCURRED	47	0
4/12	3RD READING AMENDMENTS CONCURRED	49	0
4/13	SIGNED BY PRESIDENT		
4/13	SIGNED BY SPEAKER		
4/17	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR CHAPTER NUMBER 544 EFFECTIVE DATE: 07/01/95		

SB 386 INTRODUCED BY DEVLIN, ET AL.

EXEMPT CERTAIN NONCOMMERCIAL FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE 1,100 GALLONS OR LESS IN CAPACITY FROM THE MONTANA HAZARDOUS WASTE AND UNDERGROUND STORAGE TANK ACT

2/13	INTRODUCED		
2/13	FIRST READING		
2/13	REFERRED TO NATURAL RESOURCES		
2/15	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	50	0
2/21	3RD READING PASSED	47	3
	TRANSMITTED TO HOUSE		
2/22	FIRST READING		
2/22	REFERRED TO NATURAL RESOURCES		
3/15	HEARING		
3/21	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED	52	46
3/29	TAKEN FROM 3RD READING AND PLACED BACK ON 2ND READING THE NEXT DAY		
3/30	2ND READING CONCURRED AS AMENDED	79	20
3/30	3RD READING CONCURRED	64	24
	RETURNED TO SENATE WITH AMENDMENTS		
4/05	2ND READING AMENDMENTS NOT CONCURRED	50	0
4/06	CONFERENCE COMMITTEE APPOINTED		
4/10	HEARING		
4/11	CONFERENCE COMMITTEE REPORT NO. 1		
4/12	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0
4/13	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	50	0
	HOUSE		
4/06	CONFERENCE COMMITTEE APPOINTED		
4/11	CONFERENCE COMMITTEE REPORT NO. 1		
4/11	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	93	6
4/12	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	77	21
4/18	SIGNED BY PRESIDENT		
4/18	SIGNED BY SPEAKER		
4/18	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR CHAPTER NUMBER 568 EFFECTIVE DATE: 04/27/95		

SENATE BILL NO. 386

INTRODUCED BY [signatures] GRIVOS

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING NONCOMMERCIAL FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE 1,100 GALLONS OR LESS IN CAPACITY FROM THE MONTANA HAZARDOUS WASTE AND UNDERGROUND STORAGE TANK ACT; EXCLUDING NONCOMMERCIAL FARM AND RESIDENTIAL UNDERGROUND STORAGE TANKS THAT ARE 1,100 GALLONS OR LESS IN CAPACITY FROM REIMBURSEMENT FOR EXPENSES CAUSED BY A RELEASE; AMENDING SECTIONS 75-10-403, 75-11-209, AND 75-11-307, MCA; REPEALING SECTION 75-11-217, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-10-403, MCA, is amended to read:

"**75-10-403. Definitions.** Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any regulated substance or hazardous waste into or onto the land or water so that the regulated substance, hazardous waste, or any constituent of the regulated substance or hazardous waste may enter the environment or be emitted into the air or discharged into any waters, including ground water.

(4) "Facility" or "hazardous waste management facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units.

(5) "Generation" means the act or process of producing waste material.

(6) "Generator" means any person, by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation under this part.

(7) (a) "Hazardous waste" means a waste or combination of wastes that, because of its quantity,

concentration, or physical, chemical, or infectious characteristics, may:

(i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

(b) Hazardous wastes do not include those substances governed by Title 82, chapter 4, part 2.

(8) "Hazardous waste management" means the management of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

(9) "Hazardous waste transfer facility" means any land, structure, or improvement, including loading docks, parking areas, holding sites, and other similar areas, used for the transfer and temporary storage of hazardous wastes and where shipments of hazardous waste are temporarily held for a period of 10 days or less during the normal course of transportation up to but not including the point of ultimate treatment, storage, or disposal.

(10) "Manifest" means the shipping document originated and signed by the generator and ~~which~~ that is used to identify the hazardous waste~~,~~ and its quantity, origin, and destination during its transportation.

(11) "Person" means the United States, an individual, firm, trust, estate, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity, whether organized for profit or not.

(12) "Regulated substance":

(a) means:

(i) a hazardous substance as defined in 75-10-602; or

(ii) petroleum, including crude oil or any fraction ~~thereof~~ of crude oil, ~~which~~ that is liquid at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute);

(b) does not include a substance regulated as a hazardous waste under this part.

(13) "Storage" means the actual or intended containment of regulated substances, hazardous wastes, or both, either on a temporary basis or for a period of years.

(14) "Transportation" means the movement of hazardous wastes from the point of generation to any intermediate points and finally to the point of ultimate storage or disposal.

(15) "Transporter" means a person engaged in the offsite transportation of hazardous waste by

gathering operations;

~~(vii)~~(x) a storage tank situated in an underground area, such as a basement, cellar, mine, draft, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor; or

~~(viii)~~(xi) any pipe connected to a tank described in subsections (17)(b)(i) through ~~(17)(b)(vii)~~ (17)(b)(ix)."

Section 2. Section 75-11-209, MCA, is amended to read:

"**75-11-209. Permits -- requirement for licensed installer.** (1) A person may not install or close, or cause to be installed or closed, an underground storage tank system without a permit issued by the department as provided in 75-11-212.

(2) In addition to obtaining a permit, an owner or operator shall obtain the services of a licensed installer for the installation or closure of an underground storage tank system unless the installation or closure is~~:~~

~~(a)~~ inspected by a department inspector or a designated local inspector as provided in 75-11-213~~;~~ ~~or~~

~~(b) exempt from the requirement for a licensed installer, as provided in 75-11-217~~."

Section 3. Section 75-11-307, MCA, is amended to read:

"**75-11-307. Reimbursement for expenses caused by a release.** (1) Subject to the availability of money from the fund under subsection (5), an owner or operator who is eligible under 75-11-308 and complies with 75-11-309 and any rules adopted to implement those sections must be reimbursed by the board from the fund for the following eligible costs caused by a release from a petroleum storage tank:

(a) corrective action costs; and

(b) compensation paid to third parties for bodily injury or property damage.

(2) An owner or operator may not be reimbursed from the fund for the following expenses:

(a) corrective action costs or the costs of bodily injury or property damage paid to third parties that are determined by the board to be ineligible for reimbursement;

(b) costs for bodily injury and property damage, other than corrective action costs, incurred by the owner or operator;

(c) penalties or payments for damages incurred under actions by the department, board, or federal,

state, local, or tribal agencies or other government entities involving judicial or administrative enforcement activities and related negotiations;

(d) attorney fees and legal costs of the owner, operator, or a third party;

(e) costs for the repair or replacement of a tank or piping or costs of other materials, equipment, or labor related to the operation, repair, or replacement of a tank or piping;

(f) expenses incurred before April 13, 1989, for owners or operators seeking reimbursement from the petroleum tank release cleanup fund and expenses incurred before May 15, 1991, for owners or operators seeking reimbursement from the petroleum tank release cleanup fund for a tank storing heating oil for consumptive use on the premises where it is stored or a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes;

(g) expenses exceeding the maximum reimbursements provided for in subsection (4)~~.~~; and

(h) expenses for work from releases discovered and reported on or after [the effective date of this act] for the following petroleum storage tanks:

(i) a farm or residential underground storage tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes;

(ii) a farm or residential underground storage tank with a capacity of 1,100 gallons or less that is used for storing heating oil for consumptive use on the premises where it is stored; or

(iii) farm or residential underground pipes used to contain or to transport motor fuels for noncommercial purposes or heating oil for consumptive use on the premises where it is stored from an aboveground storage tank with a capacity of 1,100 gallons or less.

(3) An owner or operator may designate a person as an agent to receive the reimbursement, provided that the owner or operator remains legally responsible for all costs and liabilities incurred as a result of the release.

(4) Subject to the availability of funds under subsection (5):

(a) for releases eligible for reimbursement from the petroleum tank release cleanup fund that are discovered and reported on or after April 13, 1989, from a tank storing heating oil for consumptive use on the premises where it is stored or from a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes, the board shall reimburse an owner or operator for:

(i) 50% of the first $10,000 of eligible costs and 100% of subsequent eligible costs, up to a

maximum total reimbursement of $495,000:

(A) for single-walled tank system releases; and

(B) for double-walled tank system releases for which the release date was prior to October 1, 1993; or

(ii) 100% of the eligible costs, up to a maximum total reimbursement of $500,000, for properly designed and installed double-walled tank system accidental releases that were discovered and reported on or after October 1, 1993; and

(b) for all other releases eligible for reimbursement from the petroleum tank release cleanup fund that are discovered and reported on or after April 13, 1989, the board shall reimburse an owner or operator for:

(i) 50% of the first $35,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of $982,500:

(A) for single-walled tank system releases; and

(B) for double-walled tank system releases for which the release date was prior to October 1, 1993; or

(ii) 100% of the eligible costs, up to a maximum total reimbursement of $1 million, for properly designed and installed double-walled tank system accidental releases that were discovered and reported on or after October 1, 1993.

(5) If the fund does not contain sufficient money to pay approved claims for eligible costs, a reimbursement may not be made and the fund and the board are not liable for making any reimbursement for the costs at that time. When the fund contains sufficient money, eligible costs must be reimbursed subsequently in the order in which they were approved by the board."

NEW SECTION. **Section 4. Repealer.** Section 75-11-217, MCA, is repealed.

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

-END-

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on February 15, 1995, at 1:00 p.m..

ROLL CALL

Members Present:
Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 344, SB 347, SB 349, SB 386, SB 391, SJR 15
Executive Action: SB 225, SB 234, LC 1463 (Committee Bill)

EXECUTIVE ACTION ON SB 225

Motion/Vote: **SEN. MACK COLE MOVED TO TAKE SB 225 OFF OF THE TABLE FOR FURTHER CONSIDERATION OF AMENDMENTS. MOTION CARRIED WITH SEN. JEFF WELDON VOTING NO.**

Discussion: **CHAIRMAN GROSFIELD** explained the amendments to the committee members.

J. V. Bennett, Montana Public Interest Research Group, concurred with the other opponents of SB 344. He stated he is concerned with exactly what is meant by substitute fuel, because many hazardous wastes don't have fuel value. He presented written testimony. **EXHIBIT 7.**

Questions From Committee Members:

SEN. GROSFIELD asked **Mr. Daubert** if toxic wastes, or heavy metals are distributed into the environment. **Mr. Daubert** said principally it is not true regarding a cement kiln. He stated the rock that's ground up to make cement, as well as traditional fossil fuels, already contain metals and minerals. He explained the metals are bound up much as they are in nature, and they don't escape readily into the environment. They end up in the cement and in the cement kiln dust.

Closing by Sponsor:

SEN. TVEIT said creating a higher cost for disposing of waste without energy recovery also creates an incentive for waste minimizing. He reported there is no subsistence here just a plain incentive, no fee break for anybody, just a higher cost for obtaining the waste. He affirmed an amendment will be prepared for the bill on Line 20 - 21 in regard to proposing a fee of $8.00 to $10.00 on hazardous waste received at the facility payable to the Health Department. He urged passage of this legislation.

HEARING ON SB 386

Opening Statement by Sponsor:

SENATOR GERRY DEVLIN, SD 2, Terry, explained SB 386 is a continuation from a bill he had two years ago which had a sunset on it. He stated the EPA never demanded that states have to do anything with the noncommercial 1,100 gallon tanks. He explained by the time the bill was signed people only had about 7 months to get the tanks out of the ground. **SEN. DEVLIN** reported this bill exempts noncommercial tanks. He explained amendments have been prepared by **Mr. Everts.**

Proponents' Testimony:

John Bloomquist, Montana Stockgrowers' Association, stated the bill does have merit enough to support it and urged committee support.

Roger Thorvilson, Acting Administration Waste Management Division, Department of Health and Environmental Sciences, presented written testimony. **EXHIBIT 8.**

Larry Brown, Agricultural Preservation Association, concurred with the testimony presented by **Mr. Bloomquist.**

{Tape: 2; Side: B}

Opponents' Testimony:

Janet Ellis, Montana Audubon Legislative Fund, commented that small underground tanks are as suspectable to leaks as large ones. She stated it is her understanding from the department that up to 25% of the underground tank leaks detected in Montana have been from the small or non-federally regulated tanks. She stressed ground waters in Montana need protection and the current regulation should stay in effect.

Anne Hedges, Montana Environmental Information Center, spoke in opposition to this bill and stated with 2,500 estimated tanks of this size in the state (which is a low estimate) it would not be a very wise decision to stop regulating and only monitor once a year. She stated the system currently in place is not very burdensome and she urged the committee to oppose this bill.

Questions & Responses From Committee Members:

SEN. CHRISTIAENS asked **Mr. Thorvilson** if the reason he is supporting this bill is because his department can't handle the workload. **Mr. Thorvilson** said there is a very large population of tanks in this state and the departments staff is small. He reported his staff isn't able to fully inspect and assure compliance with all tanks. He explained if there is legislation that deals with smaller tanks the preference is to have legislation deregulating the tanks. **Mr. Thorvilson** commented this allows the department to free up resources and deal with the larger tanks, those that have a higher threat to health and environments.

SEN. CHRISTIAENS asked **Mr. Thorvilson** if the department is trying to get out of conducting inspections. **Mr. Thorvilson** said the department itself wouldn't have presented a bill like this. He stated the department's preference is to continue with the program as it exists.

SEN. BROOKE asked **SEN. DEVLIN** if his goal is to eliminate installing underground tanks. **SEN. DEVLIN** said his goal is to get the tanks out of the ground before they start leaking.

SEN. BROOKE asked **SEN. DEVLIN** why he doesn't make it illegal. **SEN. DEVLIN** said that could be done, however, that wouldn't cover the ones that are in the ground now.

Closing by Sponsor:

SEN. DEVLIN stated it is only my desire to get the tanks that are in the ground, out of the ground, and to discourage somebody from ever putting one in the ground again.

SENATE NATURAL RESOURCES
EXHIBIT NO. 8
DATE 2-15-95
BILL NO. SB-386
8

TESTIMONY FOR SB 386

Although SB 386 reduces the degree of environmental protection relative to current law, DHES can support the proposed deregulation of small farm and residential noncommercial motor fuel and heating tanks and piping as more desirable than an alternative bill request which would have allowed the removal of small farm and residential underground tanks and pipes without regulation. The Department's experience with the implementation of a similar bill enacted during the 1993 Legislature was frustrating with regard to the effective use of the UST Program's limited resources, and that bill did not adequately ensure that releases were identified or dealt with.

If it is this Legislature's intent to deregulate a major component of the management and operation requirements for farm and residential tanks, the Department believes that it is better to totally deregulate this category of tanks than to partially regulate them. Deregulation of the approximately 2,500 tanks affected will allow the UST Program to concentrate its compliance efforts and utilize its limited resources to ensure that those tanks which fall within the federal requirements for the storage of petroleum products and hazardous substances are being effectively regulated. The consistent regulation of these tank systems will pay a higher dividend for public health and environmental protection by preventing releases and ensuring timely and effective mitigation if a release does occur.

Testimony provided by Roger Thorvilson.
MT DHES
Phone # 444-1430

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on February 17, 1995, at 12:30 PM

ROLL CALL

Members Present:
Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 365, SB 366, SB 373, SB 382, SB 406
Executive Action: SJR 15, SB 347, SB 349, SB 365, SB 373, SB 386, SB 406

{Tape: 1; Side: A}

EXECUTIVE ACTION ON SJR 15

Motion: **SEN. MIKE FOSTER MOVED AMENDMENT sjr001501.amc AS CONTAINED IN EXHIBIT 1.**

Discussion: **CHAIRMAN LORENTS GROSFIELD** explained the amendment to the committee members.

Vote: **MOTION PASSED UNANIMOUSLY.**

SEN. HARP said there was a list of both House and Senate bills that leaderslhip of both houses would agree to delaly without having to suspend the rules for transmittal deadlines. He said he didn't want anything going to the floor that wasn't in proper form.

Closing by Sponsor:

SEN. HARP said a lot of the opposition to the bill was to the original draft. By holding the bill until after transmittal it will help the process. He said he did carry the bill in 1989 and it had joint and several liability in it, but he knows when he makes a mistake. With the work of the committee the legislation can be improved upon. The main purpose of the bill is to clean up sites. The orphan accounts could wait for those appropriations, recognizing that what would be appropriated could be spent. He was surprised that the Department of Justice opposed the bill based on ARCO, because that has nothing to do with the bill because that litigation is already in place.

SEN. BROOKE said she wanted to analyze the bill in its completed form so that they could agree on it.

SEN. KEATING said if **SEN. HARP** can get the bill on the list with the House, could the committee get a grey bill that had all the amendments in it with a couple of flow charts, so they know what people would be talking about, and a fiscal note.

CHAIR. GROSFIELD said there were several mistakes in the draft grey bill, and it would help to have an accurate grey bill.

EXECUTIVE ACTION ON SB 406

Motion/Vote: **SEN. WELDON MOVED DO PASS SB 406. MOTION CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON SB 386

Motion: **SEN. COLE MOVED TO ADOPT AMENDMENTS NO. sb038601.amk AS CONTAINED IN EXHIBIT 17.**

Discussion: **Mr. Everts** said basically the amendments allow for the voluntary compliance with the Underground Storage Tank Act. It provides that a tank that is installed after the effective date of the Act shall not be eligible for reimbursement under the Petroleum Storage Cleanup Fund. The amendments also provides a termination date of December 31, 1995.

SEN. BROOKE asked **Jean Riley, Executive Director, Petroleum Tank Release Compensation Board, DHES,** if she supported the amendments. She replied that the concern with the amendments and the bill was that the tanks above ground were covered by the

fund, but the underground tanks were not. If an above ground tank has an underground pipe that has a leak, they would not be sure what to do in that case. There could be legal ramifications if funding for that was denied.

CHAIR. GROSFIELD asked why **SEN. DEVLIN** was requesting a termination date. **Frank Gessaman, Release Prevention Program Manager, Underground Storage Tanks Section, Waste Management Division, DHES,** said the reason for the termination date was to bring closure to the voluntary compliance issue, so there wouldn't be problems like there was with SB 196 that was passed last session. **CHAIR. GROSFIELD** asked if SB 196 also had a deadline date. **Mr. Gessaman** answered yes the deadline date was December 31, 1993. Upon passage of this bill, tank-owners will have to make a decision whether they want to continue to comply with the current requirements until December 31, 1995. If they do their release detection this year, which is a 36 hour test, and apply for a permit to remove their tanks, and they find a leak, they would be eligible for reimbursement by the board. After that date they can remove their tanks, but they will not be eligible for reimbursement. Storage tanks under 1,100 gallons after 1995 will not be regulated by the department and will not be eligible for release compensation.

Vote: **MOTION TO APPROVE THE AMENDMENTS CARRIED WITH SEN. BROOKE VOTING NO.**

Vote: **SEN. KEATING MOVED DO PASS ON SB 386 AS AMENDED.**

Discussion:

SEN. WELDON asked how many tanks were taken out of the ground in 1993. **Mr. Gessman** replied that there were 2,269 tanks that were removed. **SEN. WELDON** asked if there was an estimate of how many of those were problematic. He said there were 33 tanks that leaked.

SEN. CHRISTIAENS said in another committee meeting, the recommendation was that the tanks be filled with concrete. Is that the recommendation that farmers and ranchers are receiving now for above ground tanks? **Mr. Gessman** said the above ground tanks were regulated by the state Fire Marshall and that office has requirements for them. Under this bill since tanks with less than 1100 gallons capacity they will no longer be regulated, a farmer can reinstall those tanks underground.

CHAIR. GROSFIELD asked if the bill passes as amended, how will anyone know about it. **Mr. Robinson, Director, DHES,** said with SB 196 in the last session they advertised in the newspapers and a lot of people still didn't get the message. They have a list of everyone who has a tank and they will be sending a postcard or a letter saying the bill has passed and they have until the end of December, 1995, if they want to get their tank out, with an opportunity to do it under the protection of the Release

Compensation Board, and that after that they were on their own and there would be no further opportunity. Also they would put public notices in the major newspapers around the state.

Vote: MOTION TO DO PASS SB 386 AS AMENDED PASSED WITH SEN. BROOKE VOTING NO.

EXECUTIVE ACTION ON SB 365

Motion: SEN. CRISMORE MOVED TO DO PASS SB 365.

Motion/Vote; SEN. COLE MOVED AMENDMENT NO. sb036501.ate AS CONTAINED IN EXHIBIT 5. MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. CRISMORE MOVED TO DO PASS SB 365 AS AMENDED. MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 373

Motion: SEN. FOSTER MOVED TO DO PASS SB 373.

Motion/Vote: SEN. FOSTER MOVED THE AMENDMENTS NO. sb037301.ate AS CONTAINED IN EXHIBIT 10. MOTION CARRIED UNANIMOUSLY.

Vote: MOTION TO DO PASS SB 373 AS AMENDED CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 349

Motion: SEN. FOSTER MOVED TO DO PASS SB 349.

Motion/Vote: SEN. FOSTER MOVED THE AMENDMENTS NO. sb034901.ate AS CONTAINED IN EXHIBIT. 18. MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. FOSTER MOVED THE AMENDMENTS NO. sb034901.amc AS CONTAINED IN EXHIBIT 19. MOTION CARRIED UNANIMOUSLY.

Discussion:

SEN. CHRISTIAENS said he noted that SB 349 needed a fiscal note. **SEN. FOSTER** responded that he had seen the fiscal note and it had a cost of $10,000 and an additional one-half FTE. He said he refused to sign it because he didn't know why they had to have an FTE to carry around some kind of a monitor. They can figure out how to do that without another FTE.

Vote: MOTION TO DO PASS SB 349 AS AMENDED CARRIED UNANIMOUSLY.

{Comments: the meeting was recorded on 3 tapes, 60 minutes each side.}

MINUTES

MONTANA
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **Rep. Dick Knox, Chairman,** on March 15, 1995, at 3:00 pm.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 386, SB 349, SB 406, SB 373
Executive Action: SB 225 Tabled
SB 252 Be Concurred In As Amended
SB 373 Be Concurred In

Tape 1, Side A

discharge permit rules. He asked **Mr. Kakuk** to explain. **Mr. Kakuk** said if something is being discharged from a facility that someone is controlling, it doesn't necessarily have to be a permitted facility to be a discharge. If a contaminant is being discharged and it exceeds water quality standards, that is a violation of the Water Quality Act. If the department has given authorization to exceed those standards it is not pollution. The department can grant a mixing zone without necessarily granting a discharge permit. For example, septic systems don't have discharge permits but they have mixing zones. If they didn't have mixing zones, every septic system in the state would be out of compliance because they are discharging nitrates higher than ten parts per million. A mixing zone is an area where the Water Quality Act and the Federal Clean Water Act standards can be exceeded and not be in violation, in accordance with SB 252 and SB 401 from last session.

Vote: Voice vote was taken. **Motion on REP. STORY's amendment carried 12 to 5.**

REP. STORY asked that the rest of the executive action on SB 252 be postponed until after the rest of the hearings. **VICE CHAIRMAN TASH** said with no objection from the committee executive action on SB 252 would be postponed.

HEARING ON SB 386

Opening Statement by Sponsor:

SEN. GERRY DEVLIN, Senate District 2, Terry, said SB 386 exempts noncommercial farm and residential underground storage tanks that are 1,100 gallons or less in capacity from the Montana Hazardous Waste and Underground Storage Tank Act. **SEN. DEVLIN** said two years ago SB 196 was passed which gave people the opportunity to take out their noncommercial tanks that were 1,100 gallons in capacity or under before they started to leak. SB 386 is a continuation of SB 196. EPA exempted underground tanks with the capacity of 1,100 gallons or less, but Montana didn't. There are still a lot of underground storage tanks. The banks want the state to certify that a piece of land that is being sold is a clean area. The state doesn't have a legal description showing where the tanks are located. SB 386 proposes that anyone who takes an underground storage tank out before the end of the year will still be covered by the underground storage tank compensation fund. **SEN. DEVLIN** distributed amendments to SB 386 that would insert "underground storage" in two parts of the bill. **EXHIBIT 2**

Proponents' Testimony:

Roger Thorvilson, Department of Health and Environmental Sciences, said the deregulation of approximately 2,500 underground storage tanks will benefit the department because they will no longer be subject to its inspection and control authority. The department's limited resources can then be concentrated toward the larger commercial tanks.

Maureen Cleary-Schwinden, Women Involved in Farm Economics, supported SB 386.

Candace Torgerson, Montana Stockgrowers Association, Montana Cattlewomen's Association, supported SB 386.

Opponents' Testimony:

Bill Allen, Montana Audubon Legislative Fund. Written testimony. **EXHIBIT 3**

Ann Hedges, Montana Environmental Information Center, said it would be a shame to stop regulating the underground storage tanks. The monitoring requirements are not overly burdensome; they are very minimal. Ground water needs to be protected. For the state to say it is not going to help regulate the smaller underground storage tanks because it doesn't have the money is an inappropriate action. The program needs to be maintained to protect Montana's water resources.

Informational Testimony:

Jean Riley, Executive Director, Petroleum Tank Release Compensation Board. Written testimony. **EXHIBIT 4**

Questions From Committee Members and Responses:

REP. DAVID EWER asked **Ms. Riley** if the cost of removing an underground storage tank was covered by the compensation fund or if it only covered the cost of an oil or gas leak. **Ms. Riley** said the cost for removing the tank is typically not covered. The compensation fund does cover the removal of a tank if it has to be removed as a result of a release. **REP. EWER** asked **Ms. Riley** how much money is in the fund. **Ms. Riley** said approximately $4 million. **REP. EWER** asked **Ms. Riley** if the board had the power to reimburse people for the cost of removing tanks or would it take legislative action. **Ms. Riley** said it would take legislative action. The cost for either upgrading a tank or removal of the tank is statutorily excluded unless the removal is directly associated with the release.

REP. KARL OHS asked **Mr. Thorvilson** what happened to the tanks once they are removed. **Mr. Thorvilson** said they are scrapped out and disposed of as waste or scrap metal.

REP. EWER said there is a balance of $4 million in the compensation fund and asked **SEN. DEVLIN** if he would consider a

possible alternative to help people defray the cost of removing the smaller underground tanks when there isn't any leakage by contributing half of the cost. **SEN. DEVLIN** said he thought that would break the compensation fund.

REP. EWER asked **John Geach, DHES,** what it costs to remove an underground storage tank. **Mr. Geach** said the cost varies throughout the state. Some tank removals cost as low as $150 which doesn't include soil sampling. A more realistic cost would be approximately $600 to $800 which would include soil sampling. **REP. EWER** asked **Mr. Geach** to estimate how many underground storage tanks with the capacity of 1,100 gallons or less are still underground in the state. **Mr. Geach** said according to the state's data base there are about 3,000 tanks still underground in the 1,100 gallon category.

REP. EWER said there are 3,000 underground tanks and if the state paid $300 for the removal of each tank that would be $900,000. He asked **Ms. Kelly** if she thought that would break the compensation fund. **Ms. Kelly** said the fund not only covers farm and residential tanks, it is an assurance mechanism which is required by the federal government for commercial tanks. Presently there is approximately $4 million in the fund. A little over $2 million of that has been claimed which puts the fund balance at approximately $1.8 million. There is concern that putting more impact on the fund could hurt it. If the fund ever has a zero balance, the claims will be held until there is enough money to pay them. Approximately 120 claims are being received each month.

REP. EWER asked **Mr. Thorvilson** how many tanks at the 1,100 gallon capacity or under are still underground. **Mr. Thorvilson** said to date there are 10,100 underground tanks that are still in use at the 1,100 gallon or under capacity.

Closing by Sponsor:

SEN. DEVLIN urged the committee to support SB 386.

HEARING ON SB 349

Opening Statement by Sponsor:

SEN. MIKE FOSTER, Senate District 20, Townsend, said with the assumption in mind that a permit would be granted to a cement kiln to burn hazardous waste, SB 349 would present some safeguards for public health. **Sen. Foster** reviewed each section of the bill with the committee.

EXHIBIT 3
DATE 3-15-95
SB 386

Montana Audubon Legislative Fund
P.O. Box 595 • Helena, MT 59624 • 443-3949

Testimony on SB 386
House Natural Resource Committee
March 15, 1995

Mr. Chairman and Members of the Committee,

My name is Bill Allen and I am here today on behalf of the Montana Audubon Legislative Fund and we can not support Senate Bill 386.

The language in this bill infers that tanks under 1,100 gallons are less susceptible to leaks and therefore do not need to be regulated under the Montana Hazardous Waste and Underground Storage Tank Act. However, small underground tanks have proven to be just as susceptible to leaks as larger ones.

In fact, these small tanks have much thinner linings, often only as thick as a nickel, and are therefore more likely to corrode and leak. 25% of the underground tank leaks detected in the state have been from these smaller tanks which this bill attempts to exempt.

There are a number of cases in which small tanks have caused considerable environmental damage. I will just mention two: one from a farm and one from a residence (the two exemptions provided for in this bill)

* on the Weschenfielder farm near Warden, MT, a 300 gallon tank leaked and has cost over $ 40,000 to cleanup

* the Warren Adams residence outside of Great Falls had a 1,000 gallon gas tank leak and also has cost a considerable amount of money to address, around $35,000 so far

Undoubtedly it is important to protect the soil and groundwater reserves in Montana. Therefore, wouldn't it make sense to regulate those sources most likely to pollute rather than totally exempting them. Again, we would urge this committee to table Senate Bill 386.

Thank You

PETROLEUM TANK RELEASE COMPENSATION BOARD

EXHIBIT 4
DATE 3-15-95
SB 386

MARC RACICOT, GOVERNOR

STATE OF MONTANA

PHONE: (406) 444-0925
FAX: (406) 444-1902

PO BOX 200902
HELENA, MONTANA 59620-0902

Information on SB 386

Presented by
Jean Riley, Executive Director
Petroleum Tank Release Compensation Board

The Petroleum Tank Release Compensation Board (Board) is not opposed or in favor of this legislation. The Board would like me to explain the potential impacts of this legislation to you. I am handing out a summary of the reimbursements the Board has made since 1991 on underground farm and residential tanks under 1,100 gallons.

During the 1991 legislature the small tank owners approached the Board and requested the Board support legislation to expand the Petroleum Tank Release Cleanup Fund (Fund) coverage to farm and residential tanks under 1,100 gallons and all heating oil tanks. The Board was willing to do this because these tanks were regulated by either the Department of Health and Environmental Sciences Underground Storage Tank Program or for above ground tanks the Department of Justice Fire Prevention and Investigation Bureau.

The Board presently reimburses owners/operator of these types for tanks for costs associated with the cleanup of petroleum contamination which resulted from a tank system or third party damages for bodily injury or property damage. Most home owners policies have exclusions to pollution coverage. Therefore, if you own a underground storage tank which has a release, you would be responsible for all cleanup costs and also any third party damage costs associated with that release. Presently the Fund reimburses 50% of the first $10,000 and 100% of the rest of the costs until the total reimbursement reached $495,000. In the handout, if the amount reimbursed is under $5000 the total costs to date incurred by the owner is double the amount listed. If the amount is over $5000 the you would add an addition $5000 to the amount listed to figure the total cost incurred. The reimbursement amounts do not include the costs the owner incurred removing or upgrading the tank as these types of costs are not covered by the Fund.

To date the Board has not reimbursed on any third party damages from the tanks discussed in this bill. The costs listed are only for cleanup of the petroleum contamination. On other sites where third party damages have occurred costs associated with the release have escalated.

I hope the information presented has been helpful in explaining the effects of this legislation. I will be available for questions. Thank you for your time.

January 9, 1995

Petroleum Tank Release Compensation Board

Summary of Small Tank Reimbursements

(Tanks with Volume of Less Than 1,100 Gallons)

Total Reimbursements	$194,727.16
Total Pending Reimbursements	$9,502.32
Number of Sites With Claims	74.00
Number of Sites Reimbursed	69.00
Average Reimbursement to Site	$2,822.13

CITY	FACILITY NAME	FACILITY ID	CAPACITY	FUEL TYPE	REIMBURSED	PENDING	RESOLVED
Kalispell	Former Flathead Community College	11983	500	Heating Oil	$1,789.70	$0.00	YES
Kalispell	Rick Labere Property	13386	500	Diesel	$361.50	$0.00	YES
Kinsey	Richard Meidinger Farms	04459	1000	Gas & Diese	$425.92	$0.00	YES
Lewistown	Milo Halverson Residence	02313	300	Heating Oil	$374.13	$0.00	YES
Lewistown	Quincy Godfrey	13066	560	Heating Oil	$1,414.90	$0.00	YES
Libby	Elmer Joseph Residence	07376	270	Heating Oil	$425.85	$0.00	NO
Libby	Western Auto Store	09802	500	Diesel	$537.50	$0.00	YES
Libby	Former AVA Appliance	11477	1000	Heating Oil	$626.65	$0.00	YES
Libby	Roland McNair Residence	12306	1000	Heating Oil	$804.66	$0.00	NO
Libby	Marquita Peterson Residence	12977	275	Heating Oil	$153.00	$0.00	YES
Lonepine	Lando L.Bras Ranch	02758	500	Gasoline	$2,072.00	$0.00	YES
Manhattan	Flikkema Ranches, Inc.	06938	500	Gas & Diese	$911.25	$0.00	NO
Melstone	Thomas F. Hougen	00571	1000	Gasoline	$309.25	$0.00	YES
Miles City	Sterling Farm	00470	1000	Gasoline	$347.75	$0.00	YES
Missoula	David & Sharon Greaves Residence	03231	500	Heating Oil	$648.38	$0.00	YES
Missoula	Kenneth Konvack	04711	750	Heating Oil	$850.00	$0.00	YES
Missoula	Joan Christopherson	13010	1000	Heating Oil	$2,288.73	$0.00	YES
Moore	Keith Royston Farm	01434	500	Gasoline	$122.50	$0.00	YES
Plains	Plains Lockers	13102	1000	Heating Oil	$177.50	$0.00	NO
Plentywood	PLW Enterprizes	00794	500	Heating Oil	$221.25	$4,625.47	NO
Polson	D. A. Hern	06425	1000	Gas & Diese	$527.95	$0.00	YES
Polson	Jeanne Normandeau Residence	11273	1000	Heating Oil	$22.50	$0.00	YES
Polson	Bigfoot Discount	12641	1000	Heating Oil	$14,512.63	$0.00	NO
Poplar	Alvin Schagunn Farm	04782	No Eligibility Form		$0.00	$760.00	YES
Poplar	West Poplar Addition – Ruffato Shop	12363	750	Gasoline	$4,123.50	$0.00	NO
Pryor	G.M. Petroleum – Daum Ranch	06973	1000	Gas & Diese	$3,151.83	$0.00	NO
Ronan	George Stonehocker	07167	1000	Gas & Diese	$425.63	$0.00	NO
Roundup	First Security Bank Of Roundup	08363	1000	Heating Oil	$3,864.82	$0.00	YES
Saint Ignatius	John H. Lee Residence	07153	250	Heating Oil	$303.09	$0.00	NO
Scobey	Howard D. Getschel Residence	07216	500	Heating Oil	$1,004.75	$0.00	NO
Scobey	Arnette Borden Residence	11750	750	Heating Oil	$578.22	$0.00	NO
Stockett	Mike & Sons Kohut Ranch	08054	500	Heating Oil	$1,165.96	$0.00	YES
Sunburst	Sweetgrass Hills Ranch, Inc.	05228	1000	Gasoline	$930.00		
Terry	Reukauf Farm	04285	1000	Gasoline	$339.38		
Valier	Stoltz, Inc.	03109	500	Gasoline	$226.25		
Victor	M.J. & J. G. Reardon & Schockley	12392	300	Heating Oil	$341.00		

MINUTES

MONTANA
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **Rep. Dick Knox, Chairman,** on March 20, 1995, at 3:00 pm.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SJR 15, SB 346, SB 347, SB 371
Executive Action: SB 386 Be Concurred In As Amended
SB 406 Be Concurred In As Amended

Tape 1, Side A

addresses self-determination, which means that a person can determine that he is not degrading under that statute.

Tape 4, Side B

REP. BOB RANEY said he was concerned with the statement on page 9, lines 10, 11, and 12 that existing activities that are nonpoint sources of pollution as of April 29, 1993 are non-significant. There are a lot of nonpoint sources of pollution activities going on that are presently having significant impacts upon the waters. He asked **REP. GROSFIELD** if those sources would be grandfathered in. **REP. GROSFIELD** said the amendment offered by **Ms. Ore** would negate that. April 29, 1993 is the date of the Nondegradation Act. There has to be a date in order not to retroactively legislate. The conclusion shouldn't be drawn that grandfathering nonpoint sources of pollution activities means that it will remain that way forever. The bill is not in a vacuum.

REP. ROBERT STORY said he attended a hearing on the rules for nondegradation and there was talk about the rules applying to additional sources nonpoint sources of pollution. He asked **Abe Horpestad, DHES,** to comment. **Mr. Horpestad** said if a person was engaged in a nonpoint source of pollution activity and hasn't changed or increased that activity, and it was done before April 29, 1993, it would not be a new or increased source and would not be subject to the nondegradation rule. It would be subject to water quality standards.

Closing by Sponsor:

SEN. GROSFIELD said SB 371 is a restrictive bill. It won't be easy to designate outstanding resource waters. However, there are waters that deserve to be designated as outstanding resource waters and SB 371 will do that.

EXECUTIVE ACTION ON SB 386

Motion: **REP. BILL TASH MOVED SB 386 BE CONCURRED IN.**

Motion/Vote: **REP. SCOTT ORR MOVED AMENDMENTS TO SB 386. EXHIBIT 9** Voice vote was taken. **Motion carried unanimously.**

Motion: **REP. PAUL SLITER MOVED SB 386 BE CONCURRED IN AS AMENDED.**

Discussion:

REP. BOB RANEY said he was going to vote against the bill because it is a giant step backwards in the underground storage tank program that has been moving along well for almost a decade, which was to ensure that there wouldn't be tanks underground that were leaking. It was done for the protection of groundwater.

The smaller storage tanks are more prone to rust through and leak than the larger tanks.

REP. BILL TASH said the purpose of the bill is to get the tanks out of the ground and to take advantage of the extended window of opportunity that will clean up the environment, not to put them back into the ground.

REP. DANIEL FUCHS said SB 386 gives people the incentive to get the tanks out of the ground.

REP. AUBYN CURTISS said this is one more instance where Montana's agencies have adopted rules more stringent than EPA standards are. It has cost the state a lot of money and it is going to cost a lot more, even if SB 386 is passed.

REP. JON ELLINGSON said he wouldn't vote for SB 386 because he didn't understand where it would give anyone the incentive to remove the underground tanks. The only incentive to be found in the bill is that after the period of time elapses there wouldn't be any reimbursement for tank removal.

REP. DAVID EWER said he understood that reimbursement was only for tanks that were leaking and didn't think that was an incentive to take the tanks out, it would be an incentive to keep them in.

REP. KARL OHS asked **REP. EWER** to explain why he thought it would be an incentive to leave the tanks in the ground if they were leaking. **REP. EWER** said under current law the underground tanks are supposed to be taken out. SB 386 lets people do what they want. **REP. OHS** said SB 386 is only effective for a certain period of time. The tanks are registered and the department knows where they are. **REP. EWER** said the current law requires the removal of underground storage tanks. SB 386 allows for a certain period of time, the removal of underground storage tanks, with the capacity of 1,100 gallons or less and if they are leaking reimbursement will be given. After that date, there will no longer be any reimbursement, but the bill does not require that the tanks be removed. **REP. OHS** said the tanks would not be filled if they aren't permitted. The tank won't have a tag on it after a certain date and unless there is a tag, fuel will not be put in it.

REP. FUCHS said people do have to remove their underground storage tanks. For a certain period of time, if they discover they are leaking, they can get reimbursed. That is the incentive.

REP. STORY said if a person has an underground storage tank it doesn't matter whether or not it is permitted, if it leaks that person is responsible for the costs because it is an illegal activity. The bill doesn't exempt a person from that provision of law. It merely states that if the tanks aren't out of the

ground by a certain date, the owners will be responsible for any clean up costs.

REP. TASH said the purpose of the bill is to get the tanks out before they leak and harm the environment and to relieve the owners' liability concerns. There is little likelihood that properties can be disposed of that have underground fuel storage tanks.

REP. RANEY said the bill states that tanks with the capacity of 1,100 gallons or less are not considered underground storage tanks. Therefore, these tanks don't fall under any of the laws.

REP. HARPER said the leaking underground storage tank program was established so a person who had a leaking tank could get some help in cleaning it up. SB 386 would let the state close the books on all these tanks because the state knows there have been leaks that haven't been reported and it wants to cover itself.

Tape 5, Side A

REP. JAY STOVALL said the bill merely gives people the incentive to remove their underground storage tanks. If they don't have that incentive, they will take the fill cap up and leave them in the ground and there will be pollution. SB 386 is a good bill for the environment.

REP. ELLINGSON said the bill's definition of underground storage tanks doesn't include tanks with the capacity of 1,100 gallons or less. In that case, if it is still in the ground after the window of opportunity time has elapsed, there would be no need to get a permit for its removal and the services of a licensed installer wouldn't have to be obtained for the closure. The state would lose any possibility of overseeing the final closure of the tank and if there is a bad leak it's possible no one will find out about it.

REP. TASH said inspections of tanks that are removed would still be done by local health officers. Pollution isn't coming from the smaller tanks. No one can afford to repeatedly fill an 1,100 gallon tank if it is known that it leaks. The high price of fuel now dictates that the owner isn't going to find it affordable to fill a leaking tank.

REP. SWANSON said she agreed that the incentive is to get the tanks out of the ground.

REP. RANEY said there wouldn't be an incentive to get the smaller tanks out of the ground because the bill excludes them in the definition of underground storage tanks.

REP. OHS said he used to have underground storage tanks but took them out. His neighbors didn't remove their tanks. The tanks have to be registered. The tanks can't be filled unless they

meet certain criteria. They have to be inspected to make sure they aren't leaking and certain reports have to be sent in to the state. The state will not let anyone put a tank in the ground and let it continue to leak.

REP. RANEY said if the tanks no longer fall under the underground storage tank law, they don't have to be registered and they could be filled. SB 386 excludes the smaller tanks from that law.

REP. FUCHS asked **Michael Kakuk, EQC,** to comment on **REP. RANEY's** statement that smaller tanks would no longer fall under the underground storage tank law if SB 386 is passed. **Mr. Kakuk** said it was his understanding that **REP. RANEY** is correct. The only reason that bulk fillers have to go through the process of making sure a tank is tagged and has been inspected is because they are currently defined as underground storage tanks. There is an incentive to take the tanks out because if they are leaking there may be some reimbursement. Everyone understands the dangers of storage tanks. However, SB 386 could be seen as an incentive to put more storage tanks in because they wouldn't be regulated.

CHAIRMAN KNOX said he had found from talking to many agricultural people, that they are scared of underground tanks and if they ever get them out of the ground they won't put anymore back in.

Motion/Vote: Voice vote was taken. **Motion that SB 386 be concurred in as amended carried 10 to 8. REP. HARPER, REP, TUSS, REP. EWER, REP. STOVALL, REP. ELLINGSON, REP. TASH, REP. RANEY and REP. TREXLER voted no.**

EXECUTIVE ACTION ON SB 406

Motion: **REP. PAUL SLITER MOVED SB 406 BE CONCURRED IN.**

Motion: **REP. DAVID EWER MOVED AMENDMENTS TO SB 406.**

Discussion:

REP. EWER said the amendment strikes subsection (3) of SB 406. Under subsection (3) the bill limits the responses to inquiries. Line 18 of subsection (3) states that responses must be limited to the date in the underground storage tank system was removed or closed in-place and to whether or not evidence of a release was reported. State government inquiries can't be limited. **REP. EWER** said he runs seven programs at the state Board of Investments. He is required to answer all inquiries except for material such as financial statements that need to be kept confidential in the interest of private parties.

REP. SCOTT ORR said he agreed with the wording in subsection (3). All anyone needs to know is when the storage tank was removed or closed in-place and whether it leaked.

EXHIBIT 9
DATE 3-20-95
SB 386

Amendments to Senate Bill No. 386
Third Reading Copy

Requested by Senator Devlin
For the Committee on Natural Resources

Prepared by Todd Everts
March 14, 1995

1. Page 6, line 27.
Following: "RESIDENTIAL"
Insert: "underground storage"

2. Page 6, line 29.
Following: "RESIDENTIAL"
Insert: "underground storage"